

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on December 11, 2008, which has been reviewed and carefully considered. Entry of the present amendment and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-20 remain in this application, where claims 1 and 10 are independent.

By means of the present amendment, claims 1-20 have been amended for non-statutory reasons, such as for better form including beginning the dependent claims with 'The' instead of 'A', and changing "characterized in that" to --wherein--. Such amendments to claims 1-20 were not made in order to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

In the Final Office Action, claims 1-20 are rejected under 35 U.S.C. §102(e) over U.S. Patent No. 7,024,534 (Sasaki). It is respectfully submitted that claims 1-20 are patentable over Sasaki

for at least the following reasons.

Sasaki is directed to providing an information recording apparatus where data is recorded sequentially from an unallocated area after an entry sector number. Data recording is sequentially repeated from an inner portion to an outer portion. FIG 21 shows a data structure of a rewritable disc having a defect management area 1003 that includes a DMA (Defect Management Area) 1004 for managing a defect. A spare area 1005 is provided in which the content of the data which is to be recorded in the defect area is substitutively recorded.

As specifically recited on column 2, lines 24-28, in "the DMA, a spare entry for managing a defect area which is substituted for and an area for substituting for the defect area is registered. The spare entry has an address 1045 of the defect area and an address 1046 of the spare area." Thus, the same type of file is written in the spare area, namely, the type of file that was being recorded.

It is respectfully submitted that Sasaki does not teach or suggest the present invention as recited in independent claim 1,

and similarly recited in independent claim 10 which, amongst other patentable elements, recites (illustrative emphasis provided):

the second file system data being different from the first file system, ...

wherein the control means are adapted to increase a storage space for the second file system data by marking a part of the medium as unusable in the defect table and recording a part of the second file system data in the part of the medium marked as unusable.

Increasing a storage space for the second file system data, which is different from the first file system, as recited in independent claims 1 and 10 is nowhere disclosed or suggested in Sasaki


Accordingly, it is respectfully requested that independent claims 1 and 10 be allowed. In addition, it is respectfully submitted that claims 2-9 and 11-21 should also be allowed based at least on their dependence from independent claims 1 and 10 as well as for the separately patentable elements contained in each of said claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the

foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By 

Dicran Halajian, Reg. 39,703
Attorney for Applicant(s)
February 9, 200

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101